

Remarks

Claims 1-17 were originally filed in the present application. By this amendment, claim 1, 2, 4, 5, 6, 11, and 14-17 have been amended, claims 18-20 have been added and no claims have been canceled. Accordingly, claims 1-20 remain pending in the application. The Applicant respectfully submits that no new matter has been added by these amendments, as support can be found in the specification, claims and drawings as originally filed. Entry of all amendments is respectfully requested.

In view of the foregoing amendments and the following remarks, the Applicant respectfully submit that all of the pending claims are presently allowable. Prompt entry to this effect is respectfully requested.

Claim Rejections -- 35 U.S.C. § 112

Claims 1, 2, 4-6, 14, 15 and 17 stand rejected under 35 U.S.C. § 112, second paragraph, for being indefinite for the cited reasons. Accordingly, Applicants have amended said claims to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Withdrawal of this rejection is respectfully requested.

Claim Rejections -- 35 U.S.C. § 102(b)

Claims 1-5, 7, 9-10 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Blocken (US 5,904,763) (hereinafter "Blocken"). The Applicants respectfully traverse this rejection for at least the following reasons.

Blocken teaches an insulating mortar employable for floor and roof fillings. This mortar is spread on a concrete layer 20. This concrete layer forms a part of the building structure (see, for example, col. 3, line 4, "load-bearing concrete ceiling 20") and is not used to form a block type building stone as currently claimed. Further, Blocken does not teach or suggest building blocks having a concrete layer; in fact, there is no teaching or suggestion in Blocken to produce building blocks having a concrete layer as part of the building blocks themselves. To the contrary, Blocken teaches the inclusion of mortar in the structure of the building (i.e. the mortar is spread on the building structure) and not in the building blocks themselves. Therefore, the

Applicants respectfully submit that claim 1 is not anticipated by Blocken, as Blocken does not teach each and every element of claim 1. Withdrawal of this rejection is respectfully requested.

The Applicants further submit that the subject matter in claim 2 is not anticipated by Blocken. Figures 1 and 2 of Blocken do not show the thickness of the concrete layer 20. Applicants submit that the non-linear, intentionally irregular line terminating the sides and the bottom of the inner layer 20 indicates that the thickness of the inner layer 20 is undefined and indefinite. Hence, figures 1 and 2 were not drafted to depict a defined thickness of the inner layer 20 or to define a ratio or comparison of the respective thicknesses of the inner, middle and outer layers. Therefore, the Applicants respectfully submit that Blocken does not enable one skilled in the art to make a thickness comparison of the layers as set forth by the Examiner. Further, by making such a comparison, the Applicants respectfully submit that the Examiner has impermissibly read teachings into Blocken that do not exist. Therefore, the Applicants respectfully submit that claim 2 is not anticipated by Blocken. Withdrawal of this rejection is respectfully requested.

The Applicants further submit that the subject matter in claims 9-10 is not anticipated by Blocken. In Blocken, the lower surface of the inner layer 20 as shown in the figures is not shown to be level. In fact, the lower surface is not shown. Therefore, the Applicants respectfully submit that Blocken does not teach that all of the surfaces within the structure are level. Withdrawal of this rejection is respectfully requested.

Claims 2-5, 7, 9-10, 13, and 18-20 depend either directly or indirectly on claim 1. Therefore, for at least the same reasons stated above in support of the patentability of claim 1, the Applicants respectfully submit that claims 2-5, 7, 9-10 and 13 are allowable. Withdrawal of the rejections of said claims is respectfully requested.

Claim Rejections -- 35 U.S.C. § 103(a)

Claims 3 and 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blocken, claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Blocken in view of U.S. Patent No. 6,082,933 to Maguire et al., and claims 14-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blocken in view of U.S. Patent No. 5,724,783 to Mandish et al. Applicants traverse the above rejections for at least the following reasons.

Regarding claims 3 and 11-12, the Applicants respectfully submit that the Examiner misinterprets the teachings of Blocken. Although the examiner correctly refers to the fact that Blocken never distinctly discloses the exact thickness or length of individual layers, the Applicants submit that such teachings would be irrelevant with respect to the teachings of Blocken because Blocken shows continuous layers. The concrete layer 20 that forms the floor structure may carry a wall (see col. 2, line 35) and at least extends over the complete area of a room. Hence, one skilled in the art would never look to the teachings of Blocken for information regarding prescribed the thicknesses of the layers. Therefore, the Applicants submit that Blocken does not teach a concrete layer 20 having a thickness between 4 and 15 cm and/or an overall length of 0.4 to 2.5 m. Withdrawal of the rejection of claims 3 and 11-12 is respectfully requested.

Regarding claim 12, the Applicants submit that the insulating layer 28 of Blocken is not of strip shape -- to the contrary, the insulating layer in Blocken is continuous. Therefore, the Applicants respectfully submit that there is no teaching or suggestion in Blocken of a strip shape layer (i.e. layer 28). Withdrawal of this rejection is respectfully requested..

Regarding claim 8, the Applicants respectfully submit that Maguire does not teach or suggest any form of layer structure as defined in the claimed invention. To the contrary, Maguire teaches a one piece, one material block having a special three dimensional shape which allows for interlocking structures when constructing retaining walls. Maguire and Blocken present different teaching with no overlapping content; therefore, the Applicants submit that there would be no motivation for one skilled in the art to combine the teachings of Maguire and Blocken to arrive at the claimed invention. Furthermore, Blocken's mortar products are flat and not structured as in Maguire and, as such, the combined teachings would do not meet the terms of the claimed invention. Withdrawal of the rejection of claim 12 is respectfully requested.

Regarding claims 14-17, the Applicants respectfully submit that Blocken is deficient for all of the reasons presented in above. Hence, one skilled in the art would not look to combine the teachings of Blocken with the teachings of Mandish to arrive at the claimed invention. Furthermore, the combination fails to meet the terms of the claimed invention. Accordingly, withdrawal of the rejections of claims 14-17 is respectfully requested.

Conclusion

For at least the foregoing reasons, Applicants respectfully submit that claims 1-20 are allowable over the cited art of record. All issues raised by the Examiner having been addressed, an early action to that effect is earnestly solicited.

If the Examiner believes that a telephone conference with the Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially invited to contact the undersigned at the telephone number listed below.

No fee is believed to be due in addition to those fees submitted herewith. In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this Application, Applicants' attorneys hereby authorize that such fee(s) be charged to Deposit Account No. 50-3569.

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Respectfully submitted,

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